

Federal Court



Cour fédérale

Date: 20250425

Docket: IMM-13288-23

Citation: 2025 FC 744

Ottawa, Ontario, April 25, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

**ADA FAISURY TRIANA OROZCO
MILTON ALEJANDRO ROA TINJACA,
AND HARY SARAY ROA TRIANA AND
EMMANUEL JULIAN ROA TRIANA
(BY THEIR LITIGATION GUARDIAN
ADA FAISURY TRIANA OROZCO**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicants challenge a decision of the Refugee Protection Division (RPD) where the RPD denied the Applicants' claim for refugee protection on the grounds that they had Internal

Flight Alternatives (IFA) within Columbia. The RPD accepted that the family of four had been targeted by the *Autodefensas Gaitanistas de Colombia* (AGC). The Applicants argued that they were not safe from the AGC anywhere in Columbia.

[2] In considering the viability of an IFA, the RPD applied the two-part test which considers (1) risk of persecution in the IFA, and (2) whether it would be unreasonable for the Applicants to seek refuge in the identified IFA. The RPD found that although the AGC had the means to track the Applicants in Columbia, there was no evidence of motivation to do so. The RPD also found that it would not be unreasonable for the Applicant family to establish themselves in the IFAs, as they had transferable skills to find work and they would have access to both mental health and medical care.

[3] For the reasons that follow, I find the RPD decision to be reasonable and I am dismissing this judicial review.

I. Issue and standard of review

[4] The sole issue is whether the RPD's finding of viable IFAs in Columbia was reasonable.

[5] In assessing the decision for reasonableness, the Court considers the reasons provided to determine if they are based on an internally coherent and rational chain of analysis and are justified in relation to the facts and the law that constrain the decision maker (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [Vavilov]). The Court does

not reweigh or reassess the evidence unless there are “exceptional circumstances” (*Vavilov* at para 125).

II. Analysis

[6] The Applicants submit that the RPD (1) applied the wrong test in assessing their ongoing risks, (2) improperly engaged in speculation, and (3) erred when it relied on a lack of evidence of past persecution to predict future risk, rendering the decision unreasonable.

[7] In assessing if a viable IFA exists, the RPD must be satisfied, on a balance of probabilities, that (1) there is no serious possibility of the claimant being persecuted in the proposed IFA; and (2) in all the circumstances, it would not be unreasonable for the Applicants to seek refuge in the IFA before seeking protection in Canada (*Hamdan v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 643 at paras 10–12).

[8] First, the Applicants argue that the RPD erred in assessing both current and future risk under the first prong of the IFA test. They claim the RPD applied the wrong standard, using a “long-lasting interest” test instead of the correct “reasonable possibility” standard to assess the risk of persecution by the AGC upon their return to Colombia. They also argue that the RPD improperly focused on the lack of evidence of past persecution as an indicator of future risk.

[9] In assessing this factor, the RPD considered whether the AGC’s past actions and behaviour demonstrated a motivation to track the Applicants in the future in the identified IFAs. The RPD reasonably noted that the evidence demonstrated that the AGC did not follow through

on threats made nor did they take positive steps to locate the Applicants after June 2020. It was reasonable for the RPD to consider a “long-lasting” or “sustained interest” in assessing the motivation of the AGC to pursue the Applicants in the IFA (*Gutierrez Torres v Canada (Citizenship and Immigration)*, 2013 FC 165 at para 30).

[10] Second, the Applicants argue that the RPD’s conclusion that the AGC lacked motivation is based on improper speculation.

[11] The RPD’s finding that the AGC did not have an interest in pursuing the Applicants was reasonably based on the facts that the AGC did not follow through on threats of retaliation and did not express interest in recruiting the minor children. The RPD also noted that the Applicants are not the typical targets of the AGC. The RPD reasonably considered evidence that the AGC had not pursued or spoken to the Principal Applicant’s family members as follows:

[49] [...] Considering that the brother’s family members in Colombia have not been pursued, nor threatened nor harmed in any way by the agents of harm, I find that the agents of harm are not motivated to carry out their threats, made on September 9, 2022 and October 5, 2022, to harm the brother’s family...”

[12] The RPD considered the evidence on this issue and reasonably inferred, as there was no evidence of efforts to locate the Applicants, that the AGC did not have ongoing motivation to locate the Applicants in the IFA (*Jamal v Canada (Citizenship and Immigration)*, 2023 FC 1633 at para 27; *Pardo v Canada (Citizenship and Immigration)*, 2024 FC 427 at para 16). I am satisfied that the RPD did not engage in any improper speculation in arriving at this finding.

[13] Third, the Applicants submit that the RPD ignored evidence that the children and adolescent Applicants were targeted for forced recruitment, and that threats were made against the Principal Applicant's brother after an initial June 2020 incident.

[14] The RPD referred to objective documentary evidence with respect to the forced recruitment of children. The RPD reasonably found that the AGC had opportunities to recruit the Principal Applicant's children but did not threaten or take any action to do so:

[34] I note that the objective evidence reports that there have been incidents in Colombia where armed groups forcefully recruited minors. The AGC members in this case however never stated any interest in forcefully recruiting the minor claimants, nor did the AGC members ever make any attempts to do so, although they knew exactly where the claimants live. Accordingly, I find that this evidence does not support that the agents of harm have an interest in recruiting the minor claimants. [Footnotes omitted.]

[15] The RPD considered the narrative evidence put before them, and ultimately concluded that while the AGC had the means and ability to find the claimants, they lacked the motivation to do so. The RPD did not ignore the evidence. The Applicants' arguments on this judicial review essentially amount to a request to have this Court re-weigh the evidence. That is not the role of the Court. *Vavilov* makes it clear that this Court is not to reweigh or reassess the evidence unless there are "exceptional circumstances" (para 125). No such exceptional circumstances arise here.

III. Conclusion

[16] In conclusion, I am satisfied that the RPD reasonably determined that the Applicants had a viable IFA within Columbia.

[17] This judicial review is dismissed.

JUDGMENT IN IMM-13288-23

THIS COURT'S JUDGMENT is that:

1. This judicial review is dismissed.
2. There is no question for certification.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-13288-23

STYLE OF CAUSE: OROZCO ET AL V THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

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